

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

IN RE:) CHAPTER 13
HENRY JAMES, JR.,) CASE NO. 00-41058-JDW
DEBTOR)

ORDER

Debtor has filed a Motion To Approve Settlement in a personal injury action where Debtor was represented by Jackson R. Massey, attorney at law. After notice to creditors, the motion was heard before the Court on October 11, 2000. Debtor appeared with his bankruptcy counsel. No appearance was made by Mr. Massey.

The motion proposes to settle Debtor's personal injury claim for the sum of \$7,250.00. The motion further proposes to pay attorney's fees, out-of-pocket expenses, Debtor's medical expenses and to remit the net proceeds to Debtor.

The settlement will be approved based on the presentations made by Debtor at the hearing. Likewise, the payment of medical expenses will be approved subject to the requirement that Debtor pay Chapter 13 plan payment arrearages to the Chapter 13 Trustee. The net proceeds to the Debtor will be likewise approved.

The only matter for which approval is withheld is the attorney's fees. Debtor stated at the hearing that he placed a telephone call to Mr. Massey after the accident. In

response to the telephone call, a representative of Mr. Massey's office visited Mr. James at his job site to have him sign papers engaging Mr. Massey's assistance in the prosecution of the claim. Thereafter, there were no further personal contacts with Mr. James, and he never visited any office to consult with any lawyer. Mr. James did not know whether the person who visited him at his job was a lawyer. Mr. James did not know whether a law suit had been filed. There was no representation made at the hearing as to how much attorney time was involved in the handling of this case. These are not circumstances which warrant the approval of an attorney fee in the amount of \$2,392.50.

Now, therefore it is hereby

ORDERED that the settlement of this case in the amount of \$7,250.00 is approved; and it is hereby further

ORDERED that the law firm of Jackson R. Massey and Associates shall execute such documents as are necessary to complete the settlement of this case and remit the balance of the proceeds to the Chapter 13 Trustee's office less the sum of \$1,000.00 as attorney's fees, \$147.75 as out-of-pocket expenses and the sum of \$2,127.59 as Debtor's medical expenses; and it is hereby further

ORDERED that the Trustee shall retain a portion of the proceeds sufficient to pay one plan payment to the Debtor's Chapter 13 plan and remit the sum of \$2,000.00 to the Debtor; and it is hereby further

ORDERED that the remaining funds be held by the Chapter 13 Trustee until this matter can be further considered by the Court as to the issue of attorney's fees; and it is hereby further

ORDERED that a continued hearing on the motion will be held on **Tuesday, November 7, 2000, at 2:00 p.m.** in the Bankruptcy Courtroom #228, U.S. Courthouse, 125 Bull Street, Savannah, Georgia 31401, to consider whatever additional showing Mr. Massey might like to make to the Court as to his services in connection with the representation of Debtor and including an explanation as to why Mr. Massey failed to appear at the initial hearing where the matter of these attorney's fees was considered by the Court; and it is hereby further

ORDERED that a final decision as to the award of additional attorney's fees, if any, will be made at the continued hearing and thereafter, after disbursement of whatever fees are awarded, Debtor will receive the balance of funds on hand with the Trustee.

SO ORDERED, this 13th of October, 2000.

Honorable James D. Walker, Jr.
United States Bankruptcy Court

CERTIFICATE OF SERVICE

I, Cheryl L. Spilman, certify that the attached and foregoing have been served on the following:

Mr. Jackson R. Massey
3643 Walton Way Extension
Augusta, GA 30909

Sylvia Ford Brown
Chapter 13 Trustee
P. O. Box 10556
Savannah, GA 31412

Henry James, Jr.
1910 Skidaway Road
Apt. 30D
Savannah, GA 31404

John M. Cullum
P. O. Box 9842
Savannah, GA 31412

This 13th day of October, 2000.

Cheryl L. Spilman
Deputy Clerk
United States Bankruptcy Court